

**REMARKS**

**Summary of the Office Action**

Claims 1-11 are pending in the application.

Claims 1-2, 5-6 and 9-10 are rejected under 35 U.S.C. § 102(e) as being anticipated by Aweya (USP 6,549,517). The rejection of these claims is respectfully traversed.

Applicant thanks the Examiner for indicating that claims 3,7-8 and 11 are directed to allowable subject matter and would be allowable if rewritten in independent form. These claims are rewritten in independent form by this Amendment.

**Analysis of the Rejection**

In rejecting claims 1-2, 5-6 and 9-10 as being anticipated by Aweya, the Examiner cites portions of Aweya as allegedly teaching all of the elements of these claims. Applicant submits that Aweya does not teach (or even suggest) “a performance determining portion that calculates a processing capacity of the ATM switch based on the processing performance, wherein the processing capacity includes a processing capacity value C that is to be allotted to a constant bit rate connection”, as required by claims 1 and 5. Aweya does not teach (or even suggest) “calculating a processing capacity of the ATM switch based on the processing performance, wherein the processing capacity includes a processing capacity value C that is to be allotted to a constant bit rate connection”, as required by claim 9. At least for this reason, Claims 1, 5 and 9, as well as their dependent claims, are patentable over Aweya.

**AMENDMENT UNDER 37 C.F.R. § 1.111**  
**U.S. APP. NO. 09/994,887**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

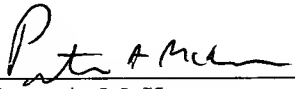
Respectfully submitted,

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WASHINGTON OFFICE

**23373**

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